

Mandates of the Special Rapporteur on the independence of judges and lawyers; the Working Group on Arbitrary Detention and the Special Rapporteur on the situation of human rights defenders

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(Please use this reference in your reply)

17 February 2025

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the independence of judges and lawyers; Working Group on Arbitrary Detention and Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolutions 53/12, 51/8 and 52/4.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **alleged arrest, conviction and sentence to nine months in prison of human rights lawyer Mr. Eron Kiiza by the General Court Martial. He is currently detained at Kitalya Maximum Prison. The information suggests that his detention and sentence is in retribution for his work as a human rights lawyer.**

Mr. **Eron Kiiza** is a human right lawyer and is one of the defence lawyers representing a four-time presidential candidate. He has defended numerous human rights activists, political opposition and government critics. He is also the Executive Director of The Environment Shield, an NGO specializing in climate, natural resources and environmental justice.

According to the information received:

On 7 January 2025 at 10 a.m., Mr. Kiiza attended a hearing to the Makindye General Court Martial, a Ugandan military tribunal in Kampala, as one of the lead attorneys of the legal team of an opposition politician who is facing charges of conspiring to undermine state security and illegal possession of firearms. Mr. Kiiza and the other defense lawyers were stopped by the Military personnel from entering the court. After two hours, Mr. Kiiza was authorized to enter. At the court's entrance, a soldier stopped Mr. Kiiza from proceeding to take his place without offering any explanation. When Mr. Kiiza attempted to protest, several soldiers forcefully dragged him to the dock, where his client was also being held. He reportedly remained in the dock for hours.

At 4 p.m. of the same day, the General Court Martial Chairman issued an order convicting Mr. Kiiza of "contempt of court" and sentenced him to nine months of imprisonment. To date, Mr. Kiiza is detained at Kitalya Maximum Security Prison in Wakiso District. Mr. Kiiza was convicted without being formally charged, and without adequate access to counsel.

The information suggests that his detention, conviction and sentence is in retribution for his work as a lawyer representing an opposition politician.

Reportedly, prior to Mr. Kiiza’s arrest, he and other defense lawyers part of the team had repeatedly and publicly complained about facing an intimidating environment at the Court Martial due to restrictive conditions imposed on their access to the court since the start of the trial of their client.

Later, Mr. Kiiza reported to his lawyers that the soldiers had taken him to the court’s holding cell and severely punched and kicked him.

Mr. Kiiza’s lawyers have filed a Human Rights Enforcement Application at the Criminal Division of the High Court of Uganda and an Appeal against the conviction and sentence of the General Court Marial at its Appellate Division.

Supreme Court ruling

On 31 January 2025, the Supreme Court held, in *Attorney General vs. Michael Kabaziguruka*, that military courts lack jurisdiction to try civilians and ordered officials to halt all ongoing military trials of civilians and transfer them to the country’s civilian court system, but stopped short of declaring past convictions of civilians under the military courts void. That same day, the Uganda Law Society published a statement welcoming the Supreme Court's ruling.

However, on 2 February, the President of Uganda, Yoweri Museveni, posted on social media that the Supreme Court decision was “wrong”.

The information describes ongoing efforts to seek compliance with the ruling. On 4 February during the sitting of the House, the Attorney General updated Members of Parliament that his office has provided advice to enable implementation of the court orders. Two days later, the Minister for Justice and Constitutional Affairs stated however, that the public should not be misled that the recent Supreme Court ruling was an order for release of civilians being tried under the General Court Martial. Since then, the Director of Public Prosecutions has reportedly issued a circular to all prosecutors guiding them on how to implement the Supreme Court decision. Despite this, a number of civilians reportedly continue to face trials in military courts.

While we do not wish to prejudge the accuracy of these allegations, we would like to express our serious concern in relation to the arrest, conviction and sentence of Mr. Kiiza by the General Court Martial, which seems directly linked to his professional activities as a defense lawyer in politically sensitive high-profile criminal cases. If confirmed, these facts would be in breach of the guarantees to which lawyers are entitled in order to perform their professional functions without any threat, intimidation, harassment or interference, and without suffering, or being threatened with, prosecution or any administrative or disciplinary sanctions for actions undertaken in accordance with professional duties and ethical standards.

We welcome the Supreme Court's ruling in the case of *Attorney General vs. Michael Kabaziguruka*, which bars the trial of civilians in military courts, and urge the authorities to take all necessary steps to comply with the ruling.

We express grave concern about the fact that Mr. Kiiza was convicted by a military court despite his status as a civilian. We recall that the use of military courts to try civilians has been addressed by the Human Rights Committee, which expressed reservations about the independence and impartiality of military tribunals and respect for the fair trial rights of the accused. In general comment No. 32, the Human Rights Committee emphasized that civilians should only be tried by military tribunals when it is strictly necessary, justified by compelling reasons, and when regular civilian courts are incapable of conducting the trial ([CCPR/C/GC/32](#), para. 22). We are deeply concerned because the information suggests that Mr. Kiiza's case does not fall under any of these categories.

We recall as well that the African Commission on Human and Peoples' Rights has also declared that military courts should not have jurisdiction over civilians in any circumstances whatsoever¹.

Furthermore, we express concern over the reported allegations of violations of due process and fair trial standards. According to reports, Mr. Kiiza was sentenced without being formally charged, raising serious doubts about whether the presumption of innocence was upheld. Furthermore, he was allegedly denied the opportunity to defend himself and access legal assistance. Such actions appear to contravene the principles outlined in article 14 of the International Covenant on Civil and Political Rights, which, as affirmed by the Human Rights Committee in general comment No. 32, apply equally to the functioning of military tribunals.

We are also seriously troubled about allegations concerning Mr. Kiiza's physical integrity. He has reportedly been severely punched and kicked by soldiers. In this connection, we would like to reiterate that the State has a duty of care to individuals in their custody, as established by article 10 of the ICCPR, to ensure the respect for the dignity of individuals deprived of their liberty.

We note with deep concern that the arrest and conviction of Mr. Kiiza could have a chilling effect on the work of lawyers, including those working on human rights-related cases, and on the right to a fair trial in Uganda. Only if lawyers can act without fear of reprisal can individuals charged with crimes have a fair trial. We urge your Excellency's Government to subject Mr. Kiiza to judicial process before a civilian court and to release him if the grounds for detention do not subsist.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.

¹ Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, 2003.

2. Please provide the reasons for which Mr. Kiiza has been tried before a military court and not before a civilian court.
3. Please provide information concerning the factual and legal basis for Mr. Kiiza's arrest, conviction and sentence. Please indicate how these actions comply with Uganda's obligations under international human rights law and standards.
4. Please explain how the judicial proceedings against Mr. Kiiza are in line with international obligations and standards related to the right to a fair trial as provided by article 14 of ICCPR.
5. Please provide detailed information on the measures adopted to ensure that defense lawyers in Uganda, including those working on human rights-related cases, can carry out their peaceful and legitimate activities without fear of judicial harassment and other interference.
6. Please provide information on measures taken to implement the Supreme Court's decision in *Attorney General vs. Michael Kabaziguruka*, which bars the trial of civilians in military courts.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Further, we would like to inform your Excellency's Government that after having transmitted the information contained in the present communication to the Government, the Working Group on Arbitrary Detention may also transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render. The Government is required to respond separately to the letter of allegation and the regular procedure.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Please accept, Excellency, the assurances of our highest consideration.

Margaret Satterthwaite
Special Rapporteur on the independence of judges and lawyers

Ganna Yudkivska
Vice-Chair on Communications of the Working Group on Arbitrary Detention

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to the norms contained in the International Covenant on Civil and Political Rights (ICCPR), acceded by Uganda on 21 June 1995. In particular, we would like to refer your Excellency's Government to articles 9 and 14 of the ICCPR, which provide for the rights to liberty and security of the person, not to be subjected to arbitrary arrest or detention, to be promptly informed of the reasons for the arrest and of any charges against him or her, to be brought promptly before a judge for a fair trial which respect due process guarantees and fair trial standards.

We would like to refer to article 9 of the ICCPR, which provides that no one shall be subjected to arbitrary arrest or detention or deprived of their liberty except on such grounds and in accordance with such procedure as are established by law. As interpreted by the Human Rights Committee in general comment No. 35 (CCPR/C/GC/35), the notion of "arbitrariness" is not to be equated with "against the law" but must be interpreted more broadly to include elements of inappropriateness, injustice, lack of predictability and due process of law, as well as elements of reasonableness, necessity, and proportionality (paragraph 12). According to the same General Comment (paragraph 17) and the jurisprudence of the Working Group on Arbitrary Detention, arrest or detention of an individual as punishment for the legitimate exercise of the rights guaranteed by the ICCPR is arbitrary.

In regard to the right to a fair trial, we would like to refer to article 14 of the ICCPR, which sets out a general guarantee of equality before courts and tribunals and the right of every person to a fair and public hearing by a competent, independent and impartial tribunal established by law. Article 14(2) provides the right of accused persons to be presumed innocent until proved guilty according to law. In addition, article 14(3) of the ICCPR provides a set of contain procedural guarantees that must be made available to persons charged with a criminal offence, including to have adequate time and facilities for the preparation of his defence and to examine, or have examined, the witnesses against him.

The Human Rights Committee has affirmed in general comment No. 32 that the provisions of article 14 apply to all courts and tribunals within the scope of that article whether ordinary or specialized, civilian or military. While the Covenant does not prohibit the trial of civilians in military or special courts, it requires that such trials are in full conformity with the requirements of article 14 and that its guarantees cannot be limited or modified because of the military or special character of the court concerned. The Committee also notes that the trial of civilians in military or special courts may raise serious problems as far as the equitable, impartial and independent administration of justice is concerned. Therefore, it is important to take all necessary measures to ensure that such trials take place under conditions which genuinely afford the full guarantees stipulated in article 14. Trials of civilians by military or special courts should be exceptional, i.e. limited to cases where the State party can show that resorting to such trials is necessary and justified by objective and serious reasons, and where with regard to the specific class of individuals and offences at issue the regular civilian courts are unable to undertake the trials.

The former Special Rapporteur on the independence of judges and lawyers observed that the administration of justice through military tribunals raises serious concerns in terms of access to justice, impunity for past human rights abuses, the independence and impartiality of military tribunals and respect for the fair trial rights of the accused. ([A/68/285](#) para. 14) It is commonly understood that human rights standards and principles relating to the administration of justice - such as the principle of equality before courts and tribunals, the right to be tried by a competent and regularly constituted court using established legal procedures, the right to an effective remedy, the principle of legality and the right to a fair trial - fully apply to military courts. (para. 17) In line with this position, principle 5 of the draft principles governing the administration of justice through military tribunals states that military courts should, in principle, have no jurisdiction to try civilians and that, in all circumstances, the State shall ensure that civilians accused of a criminal offence of any nature are tried by civilian courts. In the commentary to that principle, it is noted that the practice of trying civilians in military tribunals presents serious problems as far as the equitable, impartial and independent administration of justice is concerned, and is often justified by the need to enable exceptional procedures that do not comply with normal standards of justice (para. 43).

Regarding the inadequate time for preparation of the case, we would like to refer to general comment No. 32 of the Human Rights Committee on Right to equality before courts and tribunals and to a fair trial (CCPR/C/GC/32), which stressed that the “accused persons must have adequate time and facilities for the preparation of their defence” and that “this provision is an important element of the guarantee of a fair trial and an application of the principle of equality of arms.” Additionally, it states that “What counts as “adequate time” depends on the circumstances of each case. If counsel reasonably feel that the time for the preparation of the defence is insufficient, it is incumbent on them to request the adjournment of the trial.” “There is an obligation to grant reasonable requests for adjournment, in particular, when the accused is charged with a serious criminal offence and additional time for preparation of the defence is needed.” (para. 32). Moreover, the access to adequate facilities “must include access to documents and other evidence; this access must include all materials that the prosecution plans to offer in court against the accused or that are exculpatory. Exculpatory material should be understood as including not only material establishing innocence but also other evidence that could assist the defence.” (para. 33).

Furthermore, the Human Rights Committee has affirmed that “a hearing is not fair if, for instance, the defendant in criminal proceedings is faced with the expression of a hostile attitude from the public or support for one party in the courtroom that is tolerated by the court, thereby impinging on the right to defence or is exposed to other manifestations of hostility with similar effects.” (para. 25). Furthermore, regarding the presumption of innocence until proven guilty according to law. The Human Rights Committee stated in general comment No. 32 that “the presumption of innocence, which is fundamental to the protection of human rights, imposes on the prosecution the burden of proving the charge, guarantees that no guilt can be presumed until the charge has been proved beyond reasonable doubt, ensures that the accused has the benefit of doubt, and requires that persons accused of a criminal act must be treated in accordance with this principle. It is a duty for all public authorities to refrain from prejudging the outcome of a trial, e.g. by abstaining from making public statements affirming the guilt

of the accused.” (para. 30).

Moreover, principle 16 of the Basic Principles on the Role of Lawyers requires governments to take all appropriate measures to ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference, and to prevent that lawyers be threatened with prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

Additionally, principle 18 provides that lawyers shall not be identified with their clients or their clients’ causes as a result of discharging their functions. This principle must be read in conjunction with principle 16(c), which requires national authorities to adopt all appropriate measures to ensure that lawyers are not subject to, or threatened with prosecution or any other administrative, economic or disciplinary sanctions for actions undertaken in good faith in the exercise of their professional duties and responsibilities.

In relation to the allegations indicating that the individual mentioned above is being targeted because of his activities defending human rights, we would like to refer your Excellency’s Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms. We like to draw particular attention to the following provisions of the Declaration:

- article 9 paragraph (3) point c), which provides for the right to offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms;
- article 11, which provides for the right of everyone, individually and in association with other, to the lawful exercise of their occupation or profession;
- and, article 12 paragraphs (2) and (3), which provide that the State shall take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration.